

Remarks

I. Status of Claims

Claims 1-19 are pending. Claims 1 and 18-19 are independent. Claims 1, 18, and 19 are currently amended. Claims 3-6 and 15-17 are withdrawn from consideration.

Claims 1, 7, 9, 13, and 14 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Braun (USPGPUB 2004/0144367) (“Braun”) in view of Alder (USPGPUB 2004/0107943) (“Alder”).

Claim 2 stands rejected under 35 USC 103(a) as allegedly being unpatentable over Braun in view of Alder, as applied to claim 1 above, and further in view of Kraai (USP 5,365,025) (“Kraai”).

Claims 8 and 10-12 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Braun in view of Alder, as applied to claim 1 above, and further in view of Langer (USP 5,452,577) (“Langer”).

Claims 18 and 19 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Braun in view of Alder, Kraai and Langer.

The Applicants respectfully request reconsideration of these rejections in view of the foregoing amendments and the following remarks.

II. Pending Claims

Claim 1 stands rejected under 35 USC 103(a) as allegedly being unpatentable over Braun in view of Alder. Claims 18 and 19 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Braun in view of Alder, Kraai and Langer.

The Applicant respectfully submits that claims 1, 18, and 19 are patentable over the cited references at least because they recite, *inter alia*, “...the noise emission decreasing device ***made separately from the inner pipe and fixed to the open end of the inner pipe so as to act to decrease a noise emitted from the inner pipe....***” (emphasis added)

Certain embodiments of the present invention include an inner pipe 30. The inner pipe includes an open end 31 through which an interior of the inner pipe communicates with atmosphere, and a noise emission decreasing device 40 for decreasing a noise emitted from the

open end 31 of the inner pipe 30. Also, the noise decreasing device of certain embodiments of the present invention is made separately from the inner pipe and fixed to the ends of the inner pipe so as to decrease the vibration energy (noise) emitted from the inner pipe.

Having said that, the June 22, 2009 final Office Action recognizes (in the paragraph bridging pages 2-3 of the Office Action) that Braun fails to teach a noise emission decreasing device located within the inner pipe being adapted to act so as to decrease a noise emitted from the inner pipe. To address this deficiency of Braun, the Office Action cites Alder for allegedly teaching an inner dampening pipe of a delivery pipe having a noise emission decreasing device that equates to the Applicant's noise decreasing device. However, the corrugated structure of Alder is formed in the inner pipe itself so as to change the rigidity of the pipe. In other words, the alleged noise emission decreasing device of Alder is not made separately from the inner pipe and fixed to the open end of the inner pipe so as to act to decrease a noise emitted from the inner pipe as required by the inventions of claims 1, 18, and 19.

Also, it is respectfully submitted that the other cited references do not address the deficiencies of Braun and/or Alder.

As discussed in MPEP 2143.01, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Kahn*, 441 F.3d 977, 986, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006) (discussing rationale underlying the motivation-suggestion-teaching *>test< as a guard against using hindsight in an obviousness analysis).

Further, as discussed in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007), it is necessary to identify the reason why a person of ordinary skill in the art would have been prompted to modify Alder and/or Braun to include a noise decreasing device as recited in the inventions of claims 1, 18, and 19. Obviousness cannot be sustained by mere conclusory statements.

Therefore, for at least these reasons, the Applicants respectfully submit that, claims 1, 18 and 19, and the claims depending therefrom, are patentable over the cited references.

III. Conclusion

In view of the foregoing discussion, the Applicants respectfully submits that the present application is in all aspects in allowable condition. Favorable reconsideration and early issuance of a Notice of Allowance are therefore respectfully requested.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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By: /Daniel G. Shanley/
Daniel G. Shanley
Reg. No. 54,863

KENYON & KENYON LLP
1500 K Street, N.W., Suite 700
Washington, D.C. 20005
Tel: (202) 220-4200
Fax: (202) 220-4201